

In Re Berl
Del. Supr., 5560 A.2d 1009 (1989)

Disciplinary Rules: DLRPC 1.4(b)

Nature of Case:

This case dates back to a proceeding wherein the Supreme Court affirmed the Board's finding that Respondent violated DLRPC 1.5(e)(1) by an improper fee division in a medical malpractice case. The Court had remanded to the Board the matter of whether an attorney-client relationship existed between Berl and the person he had referred to another attorney, thereby causing a duty of disclosure to arise. Upon remand, Disciplinary Counsel enlarged the record. After a review of the additional evidence, the Board concluded that Berl violated "Rule 1.4(b) by failing to 'advise [the client] of the terms of 18 Del.C., §6865 concerning the limitation on attorney's fees in medical malpractice fees'."

Specifically, the Board found that Respondent was "doing work for [the client] throughout the matter in the expectation of a contingent fee." Despite Berl's contentions that no attorney-client relationship existed, the Board found sufficient evidence to conclude otherwise, relying primarily on the Respondent's own testimony.

Action Taken by the Court:

The Court affirmed the Board's conclusion that Respondent violated Rule 1.4(b). A public reprimand was imposed.